

Remarks

By way of the present amendment, Applicants have amended Claims 9, 28, and 29. Twenty (20) claims remain pending in the application: Claims 9-10, 12-16, and 21-33, of which Claims 9, 28, and 29 are independent. Applicants respectfully request reconsideration of the pending claims, in view of the amendments above and comments below.

Claim Rejections

Claim Rejections - 35 USC § 102

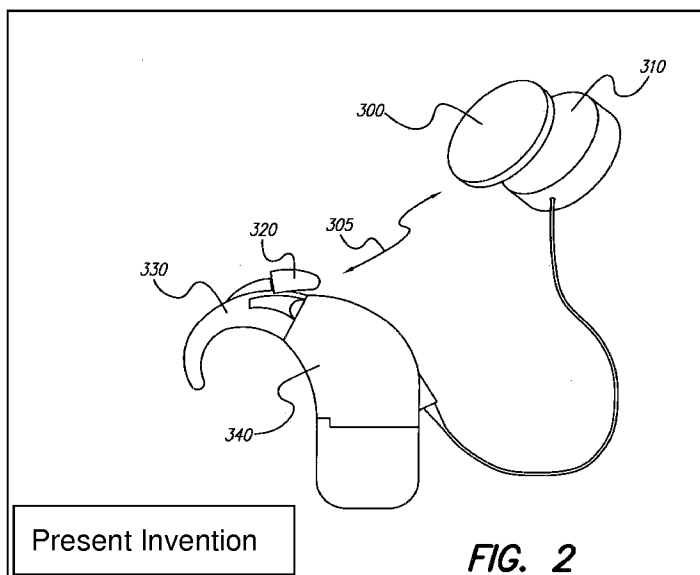
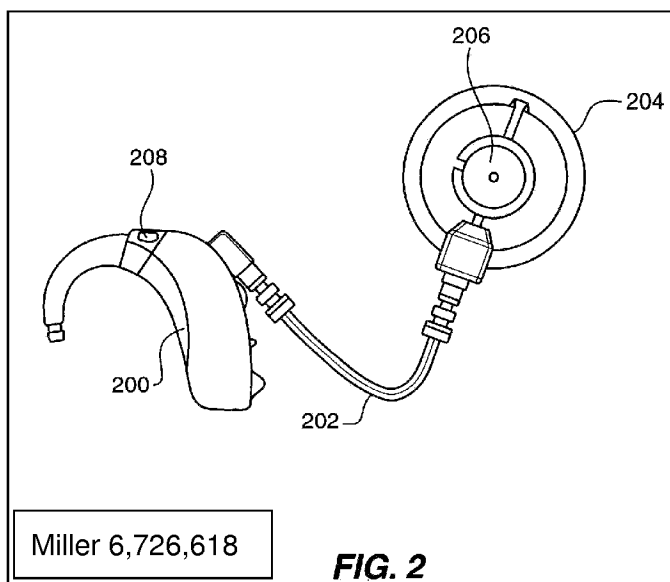
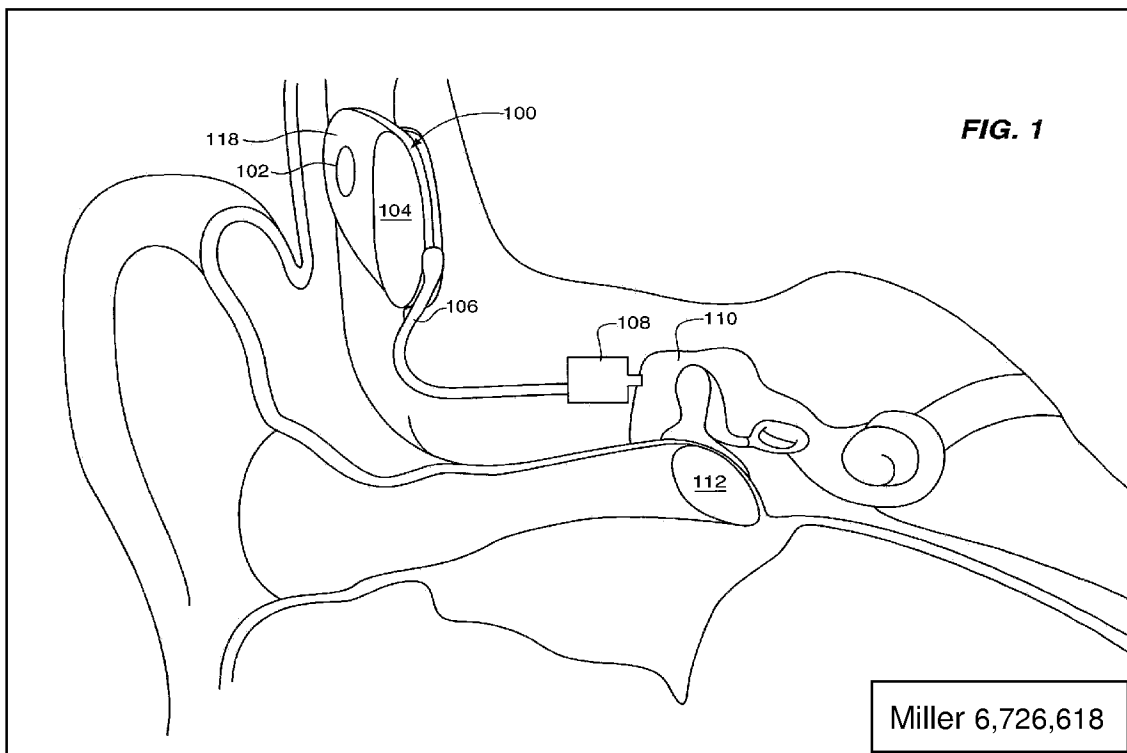
The Examiner rejected Claims 9-10, 12-14, 16, 21, 23 and 28-33 under 35 U.S.C. § 102(e) as being anticipated by Miller (U.S. patent 6,726,618).

Claim Rejections - 35 USC § 103

Claims 15, 22, and 24-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (U.S. patent 6,726,618).

Claims 9, 28, and 29 have been amended to clarify that the present invention is directed to an assistive listening device cap configured to attach to the headpiece and to be worn external to a patient's body. It is submitted that the various embodiments of the assistive listening device cap described throughout the present application are for use *external* to the body, whereas the components of Miller identified by the Examiner as the "assistive listening device cap" (100, 102, 104, and 118) are all *implanted* in the body.

Per Miller Col. 5 lines 56-58, "FIGS. 1 and 2 [copied below] illustrate implantable and external componentry respectively..." Per Col. 6, lines 21-24, "The illustrated example comprises a semi-implantable hearing aid system having *implanted* components shown in FIG. 1, and *external* components shown in FIG. 2." Per Miller Col. 6, lines 28-30, "an *implanted* biocompatible housing 100 is located subcutaneously on a patient's skull." Per Col. 6, lines 60-63, "The external transmitter 204 and *implanted* receiver 118 each include magnets, 206 and 102 respectively, to facilitate retentive juxtaposed positioning." Per Col. 7, lines 10-11, "the *implanted* signal processor 104 processes signals" (italics added).



By contrast, in the present invention, the assistive listening device (such as ALD 300 shown in Present Invention FIG. 2) is a device *external* to the body attached to an external component (such as attached to the outer surface of the headpiece 310, per FIG. 2 and paragraph [0021]).

It is further submitted that the implanted components of Miller are not “configured to attach to the headpiece”, as required by Claim 9, but rather, magnets 206 and 102 “facilitate retentive juxtaposed positioning”; i.e., the implanted components of Miller FIG. 1 are aligned with external headpiece in Miller FIG. 2, but not attached thereto, with the skin flap in between.

The present invention adds functionality to cochlear implant and/or implantable hearing aid devices and systems without adding substantial weight or size to these associated devices or systems to their associated, head-mounted, external components. The present invention accomplishes this by providing an Assistive Listening Device (ALD) Cap that is placed on top of a headpiece that is associated with a Behind-the-Ear (BTE) unit. Alternately, the ALD Cap is place on top of the head-mounted external components associated with a cochlear implant or hearing aid system that does not use a BTE unit. The ALD Cap communicates with the BTE unit or other external components directly or through an auxiliary attachment, e.g., an earhook, attached to the BTE unit. The ALD Cap contains electronics that supplement or replace the functionality of the BTE unit or other head-mounted external components. (See paragraph [0019].) Users can wear the present invention by attaching an ALD Cap to the exterior of a headpiece or by attaching an ALD Cap to the exterior of an external component unit. To use the present invention, users simply turn the power on the ALD Cap and place it on top of their existing headpiece or external component unit.” (See paragraph [0029].) This is very different from components 100, 102, 104, and 118, which are components of the implanted device of Miller, and which may be similar to the implantable device used with the system of the present invention. These implanted components do not solve the abovementioned problems; they certainly do not add “functionality to cochlear implant and/or implantable hearing aid devices and systems without adding substantial weight or size to these associated devices”; these implanted components *are part of* the cochlear implant device itself. Furthermore, the patient

cannot place these implantable components on top of his existing headpiece; instead, they require surgery to be implanted subcutaneously on the patient's skull.

In conclusion, Claims 9, 28, and 29 and those claims that depend therefrom should be patentable because the reference does not disclose an assistive listening device cap configured to attach to a headpiece and to be worn external to a patient's body as the claims require.